



SFUND RECORDS CTR

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3417-00041

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105

AR0008

11 MAR 1991

CERTIFIED MAIL: P 460 806 958
RETURN RECEIPT REQUESTED

Mr. John Benum
P.O. Box 789
Dayton, NV 89403

Re: Request for Information Pursuant to Section 104(e) of
CERCLA, and Section 3007 of RCRA, for the "Dayton, Nevada
Mercury Site", Town of Dayton, County of Lyon, State of
Nevada.

Dear Mr. Benum:

The United States Environmental Protection Agency (EPA) is currently investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants from the mill tailings piles located in the lot adjacent to the Dayton Mini-Mart, North of U.S. Highway 50 and West of Mini-Mart, Town of Dayton, Nevada (known as the Dayton, Nevada Mercury Site). This investigation requires inquiry into the generation, storage, treatment, and disposal of such substances that have been or threaten to be released at the Site ("Site"). We understand that you are an owner of the property where the hazardous substances have come to be located. A legal description of the property is attached for reference of Site location. (See enclosure #1)

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. Section 9604(e), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499, and pursuant to Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6927, you are hereby requested to respond to the Information Request enclosed.

Compliance with the enclosed Information Request is mandatory. Failure to respond fully and truthfully to this information request within ten (10) days of receipt of this letter, or adequately to justify such failure to respond, can result in an enforcement action by EPA pursuant to Section 104(e) of CERCLA, as amended, and/or Section 3008 of RCRA. Each of these statutes permits EPA to seek the imposition of up to twenty-five thousand

dollars (\$25,000) for each day of continued non-compliance. Please be further advised that providing EPA with false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. 1001 or Section 3008(d) of RCRA.

The scope of this request extends to all non-privileged information and documents developed or obtained by you or your business, and by your agents, consultants, or attorneys. If information or documents not known or not available to you as of the date of your response to this Information Request should later become available to you, you are required to supplement your response to EPA.

Please include in your response to this request a statement that a diligent records search has been completed and that all information responsive to this request has been forwarded to EPA. This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501, et seq.

Your response to this Information Request should be mailed to:

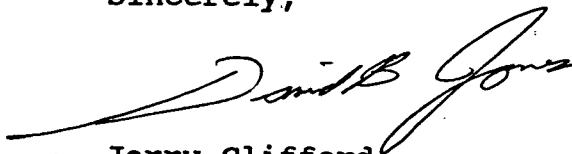
Brent Maier
Emergency Response Section
U.S. Environmental Protection Agency, H-8-3
75 Hawthorne Street
San Francisco, CA 94105

Please direct any legal questions you may have to Michael Hingerty, Office of Regional Counsel at (415) 744-1315. If you have any technical questions contact Bob Mandel, On-Scene Coordinator at (415) 744-2290. For any general questions you may have concerning this information request, please contact Brent Maier at (415) 744-2299.

Due to the seriousness of the problem at the Site and the legal ramifications of a failure to respond promptly and properly, U.S. EPA strongly encourages you to give this matter your immediate attention and to respond to this Information Request within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,



for Jerry Clifford
Deputy Director for Superfund

REQUEST FOR INFORMATION
INSTRUCTIONS

1. A separate response must be made to each of the questions set forth in this Information Request.
2. Precede each answer with the number of the Information Request to which it corresponds.
3. In answering each Information Request, identify all contributing sources of information.
4. If information not known or not available to the Respondent as of the date of submission of its response should later become known or available, Respondent must supplement its response to EPA. Moreover, should the Respondent find, at any time after the submission of its response that any portion of the submitted information is false or misrepresents the truth, respondent must notify EPA as soon as possible.
5. For each document produced in response to this request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it responds.
6. You must respond to the Information Request on the basis of all information and documents in your possession, custody or control or in the possession, custody or control of your former or current employees, agents, servants, contractors or attorneys. Furnish such information as is available to you, regardless of whether or not it is based on personal knowledge, and regardless of source.
7. If any documents requested herein have been transferred voluntarily or involuntarily to others or have been otherwise disposed of, identify each such document, identify the person to whom it was transferred, describe the circumstances surrounding such transfer or other disposition, and state the date or approximate date of such transfer or other disposition.
8. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. [See 41 Federal Register 36902 et seq. (September 1, 1976); 43 Federal Register 4000 et seq. (December 18, 1985)]. If no such claim accompanies the information when it is received by EPA it may be made available to the

public by EPA without further notice to you. You should read carefully the above-cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim, as stated in Section 104(e)(7)(ii) of CERCLA.

9. The following definitions shall apply to the following words as they appear in this Information Request.

a. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.

b. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.

c. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

d. The term "identify" means, with respect to a corporation partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (e.g. corporation, partnership, etc.) organization, if any, and a brief description of its business.

e. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

f. The terms "document" or "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapings, notebook, bulletin, circular, form, pamphlet, state

ment, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack, any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory), and: (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation, or the like on it, (c) drafts, (d) attachments to or enclosures with and (e) every document referred to in any other document.

g. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 CFR Part 300 or 40 CFR Parts 260 - 280, in which case the statutory or regulatory definitions shall apply.

INFORMATION REQUEST

1. Identify all past and present owners, operators, lessors or lessees at the Site described by the legal description that is attached hereto, for the lot located in Town of Dayton, County of Lyon, Nevada.
2. For each past and present owner, operator, lessor or lessee of any portion of the Site:
 - a. Identify such persons and the nature of their operation at the Site, and state the dates during which each owner, operator or lessee operated at the Site.
 - b. Provide complete names, addresses and telephone numbers of all persons identified above.
3. Provide copies of all documents evidencing or relating to ownership, operation or lease at the Site, including but not limited to purchase and sale agreements, deeds, leases, etc.
4. Describe and provide documentation of the terms and conditions of the conveyance to the County of Lyon for park purposes, that portion of the adjacent parcel.
5. Describe the history of the Site, and provide any information you may have concerning how the mine tailings piles came to be located on your property.

6. If you have reason to believe that there may be persons able to provide a more detailed or complete response to this Information Request or who may be able to provide additional responsive documents, identify such persons.

7. Complete the enclosed four page Financial Statement for Individuals Request (enclosure #2), and three page Collection Information Statement for Businesses (enclosure #3) and provide copies of all documents used to complete these forms.

cc: Jolene Johnson, NDEP
Bob Mandel, EPA
Enforcement File
Michael Hingerty